

REMARKS/ARGUMENTS

Claims 1-3, 6-10 and 12-13 remain pending in the instant application. Applicant gratefully acknowledges the withdrawal of all previous rejections made in the November 4, 2009 Office Action. Favorable reconsideration of the present claims is kindly requested.

Amendments to the Claims

As amended above, independent claims 1, 12 and 13 are amended to recite the first connecting component “configured and operative for connection to an elevated hanging fluid supply, wherein said first channel traverses the device in a generally straight vertical path with said first connecting component connected to said elevated hanging fluid supply”. New claims 16 and 17 depend from independent claims 1 and 13, respectively, and further recite the elevated hanging fluid supply is an infusion bag. These features are fully supported in the specification as filed, for example at p. 3, lines 29-33, and Fig. 1.

Independent claims 1, 12 and 13 are further amended to recite the second channel “forming an angle of between about 10 degrees and about 80 degrees with said first channel”. This feature is fully supported in the specification as filed, for example at p. 4, lines 6-13, and Fig. 2a.

New independent claim 18 is added, finding support in claim 12. In addition, claim 18 recites

a first channel for conveyance of a first medical substance,
wherein the device is configured such that said first channel is
oriented vertically in use;

a first connecting component with a first port for
introduction of said first medical substance into said first channel
under gravity;

No new matter has been added by the foregoing amendments.

Drawings

The Office Action objects to the drawings for failing to show all features of the claims, specifically an injection needle as recited in claims 14 and 15. Applicant respectfully traverses the rejection.

An injection needle is depicted in Figs. 2A and 3 as filed. Applicant kindly refers the Examiner to the amendments filed June 8, 2009, wherein Figs. 2A and 3 are amended to add

reference numeral “25” having leader line to the injection needle. Also in the June 8, 2009 amendment, the specification was amended at p. 4, paragraph beginning line 26, to add numeral “25” to designate the injection needle already described and depicted. No new matter was added by these amendments.

Therefore, Applicant respectfully submits that the drawings as amended include an injection needle with specific reference to the corresponding description in the specification. Applicant respectfully submits that the objection is poorly taken, and kindly requests favorable reconsideration and withdrawal.

Rejection under 35 U.S.C. § 103

Claims 1-3, 7-10 and 12-13 are rejected under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,632,735 to Wyatt, *et al.* (“Wyatt”), in view of U.S. Patent No. 5,122,123 to Vaillancourt (“Vaillancourt”). Applicant respectfully traverses the rejection, for at least the following reasons.

Without prejudice to the foregoing rejection, independent claims 1, 12 and 13 are amended above to more clearly identify their distinguishing features over the proposed combination of Wyatt and Vaillancourt. The instant claims recite that the first channel traverses the device in a generally straight vertical path with said first connecting component connected to an elevated hanging fluid supply, with the second channel forming an angle of between about 10 degrees and about 80 degrees with said first channel. Gravity will therefore aid fluid transport through the device, along the first channel from the elevated hanging fluid supply toward the patient. A second substance injected through the second channel at the recited angle would mix with the first substance in the first channel and similarly be transported towards the patient. Neither Wyatt nor Vaillancourt, taken singly or in combination, disclose or suggest a device having these features.

The injection port of Wyatt’s T-connector (see Fig. 8A) is arranged at a right angle to the fluid channel, not between about 10 and about 80 degrees. Although Wyatt discloses a Y-shaped connector elsewhere (e.g., Fig. 7), this connector is not compatible with the recited features of the present independent claims. The straight and vertical channel of Wyatt’s Y-shaped embodiment is sealed by a septum (27), that needs to be pierced or separated, for example by a

cannula, and is therefore not configured for connection with an elevated hanging fluid supply, for example an infusion bag.

Accordingly, Wyatt does not contemplate a straight vertical path through the device from a connection to an elevated hanging fluid supply through an exit port, with a sealed second channel making an angle of between about 10 to about 80 degrees with the first channel.

The proposed addition of Vaillancourt is offered for its teaching of a solid flexible membrane, but like Wyatt, Vaillancourt does not teach or suggest a first channel traversing the device in a generally straight vertical path, with a second channel forming an angle of about 10 to about 80 degrees with the first channel.

Therefore, even presuming that there were some apparent reason for one of ordinary skill in the art to combine the references as proposed in the Office Action, their combination does not teach or suggest all recited features of at least independent claims 1, 12 and 13. It remains well settled that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Gulack*, 703 F.2d 1381, 1385 n.9, 217 U.S.P.Q. 401 (Fed. Cir. 1983).

Claims 2-3 and 7-10 each depend, directly or indirectly, from independent claim 1. These dependent claims are each separately patentable, but in the interest of brevity they are offered as patentable for at least the same reasons as their underlying independent base claim, the feature of which are incorporated by reference. Therefore, Applicant respectfully submits that the rejection has been obviated, and kindly requests favorable reconsideration and withdrawal.

The features of new claim 18 are also distinguished over the proposed combination of Wyatt and Vaillancourt. As noted above, according to Wyatt the only straight path 14a through the device is closed by a septum 27. Wyatt is therefore not “configured for introduction of said first medical substance into said first channel under gravity” as recited in the claim.

Furthermore, even the Y-shaped device according to Wyatt does not include an air- and liquid-proof membrane positioned at a proximal end of said second channel. These deficiencies of Wyatt relative to claim 18 are not remedied by the proposed combination with Vaillancourt. Therefore, Applicant respectfully submits that claim 18 is also distinguished over Wyatt and Vaillancourt, taken singly or in combination.

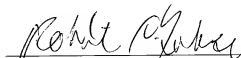
Conclusion

In light of the foregoing, Applicant respectfully submits that all claims are patentable, and further that the instant application is in condition for allowance. An early and favorable Notice of Allowability is kindly solicited.

THIS CORRESPONDENCE IS BEING
SUBMITTED ELECTRONICALLY
THROUGH THE PATENT AND
TRADEMARK OFFICE EFS FILING
SYSTEM ON July 23, 2010.

RCF/DJT:lf

Respectfully submitted,



Robert C. Faber
Registration No.: 24,322
OSTROLENK FABER LLP
1180 Avenue of the Americas
New York, New York 10036-8403
Telephone: (212) 382-0700